

Doc. 95-42

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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JUN 15 1990

Federal Communications Commission
Office of the Secretary

In the Matter of:

Request of A.C. Nielsen Co.
for Permissive Use of Line
22 of the Active Portion of
the Television Video Signal

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DA 89-1060

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To: The Commission

REPLY TO OPPOSITION TO MOTION TO CLARIFY
AND
OPPOSITION FOR REQUEST FOR LEAVE TO FILE

A.C. Nielsen Company ("Nielsen"), by its attorneys, hereby replies to the "Opposition to Nielsen's Motion to Clarify," filed by VidCode, Inc. ("VidCode") on May 22, 1990 (the "Opposition") and opposes the "Request For Leave To File" incorporated into that same document (the "Request"). In support of this Reply and Opposition, Nielsen states as follows:

1. VidCode's "Opposition" presents no basis for denying Nielsen's Motion to Clarify. Contrary to VidCode's protestations, Nielsen did not file a "Motion" to "amend" its authority in order to remove "explicit requirements" therein, allegedly adopted due to the Commissions' supposed conclusion that Nielsen would "predate" on its competitors. There are no

such requirements, nor any such conclusion contained anywhere in the extensive record of this proceeding. Nielsen's Authority authorizes the encoding of commercials for which encoding has been requested by Nielsen's customers, and Nielsen is therefore not seeking any "amendment" to its authorization. Indeed, Nielsen seeks clarification to, among other reasons, prevent unnecessary pleadings such as VidCode's.^{1/}

2. In the same pleading as its "Opposition," VidCode seems to incorporate a request for leave to file an untimely reply to Nielsen's May 21, 1990 Opposition to VidCode's Motion to Withdraw Nielsen's Authority. Opposition at 2. VidCode's Request for additional time should be denied. VidCode's Request is unsupported by good cause,^{2/} and a grant of VidCode's Request would only delay further the ultimate resolution of Nielsen's request and thereby disserve the interests of the marketplace, which is eager for Nielsen to receive permanent authorization.

^{1/} VidCode's action clearly is an effort to block Nielsen from the marketplace while VidCode attempts to implement its own line 22 service, and to blame Nielsen for VidCode's failure to provide a commercially viable service since the time it received its authorization -- almost two years ago.


^{2/} VidCode merely states that "essential personnel" at VidCode will be "abroad" until at least June 5, 1990. In this age of global communications, this can hardly serve as a basis to grant VidCode's Request for additional time.

For the foregoing reasons Nielsen respectfully requests the Commission to reject VidCode's Opposition, to grant Nielsen's requested clarification, and to deny VidCode's Request for an extension of the time for filing a reply to Nielsen's Opposition to VidCode's Motion to Withdraw Temporary Authority.

Respectfully submitted,

A.C. NIELSEN COMPANY

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Dated: June 5, 1990

Certificate of Service

I, Kimberly A. Smith, a secretary in the law firm of Gardner, Carton & Douglas, hereby certify that copies of the foregoing Reply to Opposition to Motion to Clarify and Opposition for Request for Leave to File were served this 5th day of June, 1990, by hand and/or first class mail postage prepaid on the following:

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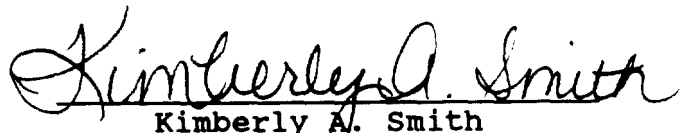
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